

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CLEMENT WOGHIREN,

Plaintiff,

v.

WYETH, And

WYETH BIOPHARMA,

Defendants.

CIVIL ACTION NO. 04-12148 WGY

JOINT MOTION TO EXTEND POTENTIAL TRIAL DATE

The parties in this action respectfully request the Court to extend the date on which trial in this matter could commence from October 3, 2005 to December 5, 2005. As grounds therefore, the parties state as follows:

1. On July 22, 2005 the parties received from the court notice and order to appear for a pre-trial conference in this matter on September 22, 2005 (the "Order"). The Court ordered that the parties be prepared to try the case on or after October 3, 2005 on which date the case would be placed on the Court's "running list".
2. Prior to receiving the Court's Order, counsel for the plaintiff committed to a twice-postponed arbitration in Atlanta, Georgia entitled Calibrate, Inc. v. Konanki, American Arbitration Association Docket No. 30 160 00904 04, from October 3 through October 6, 2005. The parties to that matter have had great difficulty scheduling arbitration dates during which the parties, their counsel and multiple witnesses, many of whom will be flying to Georgia from the Boston area, could attend, finally settling on October 3-6, 2005. Two related cases – Konanki v. Calibrate, Inc., Mass. Superior Court for Suffolk County, Business Litigation Session Docket

No. 04-1366 BLS2 and Calibrate, Inc. v. Konanki, Georgia Superior Court for Wilkes County, Civil Docket No. 04CV0206 are stayed pending the outcome of this arbitration.

3. Also prior to receiving the Court's Order, undersigned counsel for the Defendant is lead trial counsel in a trial commencing on October 25, 2005. The matter is pending before Judge Harrington in the United States District Court for the District of Massachusetts, and is entitled First Act Inc. v. Brook Mays Music Co., USDC Docket No. 03-12020 (EFH). The trial date in this complex litigation was scheduled by Judge Harrington in March 2005, and has already been postponed on a prior occasion. A further postponement is not feasible. The parties in that matter anticipate the trial to last at least four weeks.

4. The requested extension is not being requested for purposes of mere delay and, in fact, the parties have engaged in substantial discovery and anticipate completing discovery by the discovery deadline of September 15.

5. They nonetheless request this extension in order to meet commitments made prior to the receipt of the Court's July 22 Order.

WHEREFORE, the parties respectfully request that this Honorable Court extend the possible trial date by approximately sixty days to December 5, 2005.

CLEMENT WOGHIREN,

WYETH and WYETH BIOPHARMA

By His Attorney,

By Its Attorney,

/S/ John F. Tocci
John F. Tocci, Esq.
Tocci, Goss & Lee, PC
35 India St., 5th Floor
Boston, MA 02110

/S/ Michael A. Fitzhugh
Michael A. Fitzhugh, Esq.
Fitzhugh, Parker & Alvaro LLP
155 Federal Street, Suite 1700
Boston, MA 02110-1727

August 22, 2005

August 22, 2005